

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

July 16, 2002

Before

Honorable ILANA DIAMOND ROVNER, *Circuit Judge*

Honorable DIANE P. WOOD, *Circuit Judge*

Honorable TERENCE T. EVANS, *Circuit Judge*

No. 01-1774

BRISTOL-MYERS SQUIBB COMPANY,

Plaintiff-Appellee,

v.

IKON OFFICE SOLUTIONS, INC.,

_____*Defendant-Appellant.*

] Appeal from the United States
] District Court for the
] Southern District of Indiana,
] Evansville Division.

] No. EV 99-48-C-H/H
]
] David F. Hamilton, *Judge*

]

ORDER

On its own motion, the court hereby AMENDS its opinion of July 1, 2002, as follows: At the end of the paragraph that begins at the bottom of page 4 and carries over to page 5, the following footnote is added:

¹ Of course, by citing these cases we do not mean to imply that the allocation of functions between a court and jury depends on Missouri rather than federal law; it does not. *See Mayer v. Gary Partners & Co.*, 29 F.3d 330 (7th Cir. 1994). Although the allocation of functions within the judiciary is a matter of federal law, the determination of whether a given issue is “material” for purposes of ruling on a motion for summary judgment is an issue of state law, and in this case, Missouri law controls.

So ordered.